

INLAND WETLANDS AGENCY  
FEBRUARY 11, 2004 - 7:30 P.M.  
TOWN HALL ANNEX - COMMUNITY ROOM 2

I. ROLL CALL

Present: Scott, Keeler, Sutphen, Williams, Block, Alternates Ashworth and Furlong  
Staff: Jones, Vislosky

II. PUBLIC HEARINGS

1. Mystic Ice House Subdivision, 76 New London Road/Route 1

Chairman Scott opened the public hearing at 7:32 p.m. and Keeler read the legal ad. Staff noted that the certificates of mailing are in order. She noted receipt of and read a Notice of Intervention from Karl Goldkamp. She noted that all the information submitted associated with the original subdivision is available and information can be copied and submitted into the current file. John Paul Mereen, representing the applicant, reviewed the application requesting a modification to Permit #03-02 to allow work within the upland review area up to the 50-foot wetland buffer. He asked Michael Schaefer to review his report examining pre and post conditions on the wetlands.

Michael Schaefer, Soil Scientist, noted that it was not the best time of year to examine a site, but he does have experience with erosion and sediment control and water quality issues. He reviewed his report that examined water quality and quantity issues pre and post development if activity occurred 50 feet from the wetland rather than 150 feet from the vernal pool. The vernal pool is shallow and probably does not support a great number of species, probably just one. He could not look at all the ground surface details or herbaceous vegetation because of the 2-4 inches of snow on the ground, but he did examine the landscape, forest canopy and proposed house location. Limited land clearing would be required for the proposed house and driveway. He reviewed wetland soils noting the wetland on site is the southern appendage of a much larger wetland feeding Fishtown Brook. He reviewed the water runoff quantity curve using the TR-55 program in the area of Lot 4 and determined a pre-development level of 73; post-development would raise the curve to 80 with the pervious and cleared area. Based on this information, pre-development runoff is .32 and it will increase to .56 post development. He reviewed vegetation on site. Municipal water and sewer is proposed so there should be no harm to wetlands.

He summarized by stating he felt Lot 4 could support a home without degrading the wetland or vernal pool, but he suggested several best management practices. The site should be graded to reduce water flow. Roof water should be directed to an underground infiltration system. A shallow, pea-stone-filled infiltration trench should be installed at the edge of any paved surface that drains toward the wetland to allow water to enter the ground, recharge and be purified in the soil. Any hardwood tree with an 8-inch or greater diameter should remain, where possible. His last recommendation involved a 30-foot,

vegetated filter strip within the 50-foot wetland buffer along the eastern portion of the buffer. He reviewed this low maintenance, very effective method in detail.

Scott asked for clarification of the application of Table 9.11-1 Manning's Roughness Coefficients to this project. Sutphen questioned the method for creating a filter strip, the removal of vegetation within the 50-foot wetland buffer, and why the filter strip is not recommended on the upland review area side of the buffer. Schaefer noted that because the upland review area will most likely be grassed, erosion is not an issue. Scott noted that the trees are larger the further you go into the buffer. The weedier trees are near the proposed house location. Also, buffers are usually not mowed. It was noted that the lot could still be developed with the 50-foot buffer and then a 30-foot filter strip. Ashworth asked if sump pumps would be required and Mereen noted they have not dug test pits.

Staff read correspondence in the file from Joe St. Martin and Joanne Capen and the Conservation and Planning Commissions. She distributed a map showing the direction of wetland water flow. She also marked up a plan showing the previously-approved buffers noting that this modification is asking for work up to the edge of the 50-foot wetland buffer. She clarified that you would not typically remove wooded land just to establish a filter strip.

Chairman Scott asked for comments from intervenors.

Karl Goldkamp, 5 Heath Street, requested a continuance of the public hearing so that his consultant, Mr. Klemens, could comment on the application. He also expressed concern with pesticides, herbicides and fungicides harming salamanders.

Chairman Scott asked for public comments.

Joan Smith, representing the Groton Open Space Association, distributed and read a statement. GOSA feels that the Agency should uphold its original decision if the applicant does not have new facts to present. The recent Avalon Bay court decision is not retroactive on past approvals. If the Agency's original decision is modified it will undermine their authority and encourage other applicant's to do the same rather than appeal a decision in court. GOSA also recommended that the Attorney General be contacted concerning this project testing the Avalon Bay court decision.

Judy Goldkamp, 5 Heath Street, questioned who is responsible for maintaining and monitoring the buffer especially as ownership changes. The Town does not have the resources to monitor the buffer.

Attorney Ralph Bergman, member of the Mystic Ice Company Development LLC, clarified that the Avalon Bay court decision determined that salamander habitat is not within the purview of an Inland Wetlands Agency; therefore, the court decision is retroactive.

Mike Schaefer stated that the proposed filter strip is designed to be low maintenance and a homeowner would be capable of maintaining it.

Joan Smith noted that this permit modification application appears to be an appeal of the Agency's decision and questioned how it is different. Scott noted that applicants have a right to apply to modify a permit for a number of reasons.

Ralph Bergman noted that the first decision involved a misapplication of the law and there was extensive testimony on the impact this subdivision would have on the vernal pool salamanders. Scott agreed that there was much testimony regarding the salamanders, but clarified that the vernal pool was one of many factors in determining the buffer.

Joan Smith asked that the Agency not dismiss the amphibians that provide an important function to the vernal pool's success because of the Avalon Bay decision.

Karl Goldkamp asked for clarification that the Agency did not impose the buffer just because of the vernal pool.

John Paul Mereen closed by stating that Michael Schaefer's report should address any Agency concerns and the filter strip would give salamanders a place to go.

The Agency asked staff to contact the Attorney General concerning the impact of the Avalon Bay decision on this application. Scott noted that this application does not hinge on the Avalon Bay decision. The Agency is interested in protecting the wetlands and preventing erosion. He also stated that the Agency discussed the southern end of the wetland during the first application and chose to increase the buffer on the side and they will look at that again under this application.

MOTION: To continue the public hearing to February 25, 2004.

Motion made by Sutphen, seconded by Williams, so voted unanimously.

### III. PUBLIC COMMUNICATIONS

Staff distributed copies of The Habitat newsletter and an order form from the DEP bookstore.

### IV. APPROVAL OF THE MINUTES OF January 14, 2004 and January 21, 2004 Site Walk

MOTION: To approve the minutes of January 14, 2004 and January 21, 2004 Site Walk as written.

Motion made by Sutphen, seconded by Williams, so voted unanimously.

### V. NEW APPLICATIONS

1. Receipt of New Applications

- Porter Property, 1560 North Road

Staff noted that an application requesting a permit for grading activity was received yesterday. The applicant will attend the next meeting.

VI. PENDING APPLICATIONS

1. Colonel Ledyard Estates, Colonel Ledyard Highway

The Agency reviewed an outline prepared by staff of the five sidewalk alternatives presented by the applicant. The Agency agreed that they did not want a retaining wall that would create a significant amount of impact on the wetlands. Sutphen was opposed to a sidewalk because it required a large amount of wetland fill and felt it was not a bad idea to locate the sidewalk on the opposite side of Colonel Ledyard Highway. Staff noted she did not know whether there were wetlands across the street. Most members felt that a sidewalk on the opposite side is useless if the desire is to provide a connection to the existing Deerfield and LaFrance sidewalks. Also, pedestrians would have to cross Colonel Ledyard Highway twice. Scott and staff noted that they have witnessed many people using the existing sidewalks. Scott felt it would be a safety issue not to provide a connection. Scott suggested eliminating the snowshelf for at least the first 100 feet from the southern property line where the most impact is proposed. The Agency also wanted a four-foot-wide sidewalk. Staff noted that the Subdivision Regulations require a five-foot sidewalk along collector streets, but can grant waivers to allow a four-foot sidewalk or even no sidewalk. Scott noted that 1700 s.f. of wetland fill would be eliminated by removing the snowshelf and constructing a four-foot sidewalk closer to the road.

The Agency had no concerns with the discharge of stormwater or the installation of open space markers. They did suggest re-stabilizing the slope within the upland review area where utilities are proposed with native grasses and shrubs. They reviewed the areas that they would like the Planning Commission to post as conservation easements.

Furlong questioned the site's existence in a sewer avoidance area. Staff noted that the Town Attorney has stated that the Inland Wetlands Agency does not have jurisdiction in that matter; it is an issue for the Planning Commission. Also, the connection to town sewers must be approved by the Water Pollution Control Authority. If sewers are not allowed, a new plan showing larger lots with septic systems would need a new permit from the Agency.

Staff distributed considerations for decision.

MOTION: To approve the Colonel Ledyard Estates application for the following reasons:

1. A prudent and feasible alternative does not exist for the stormwater discharge and open space markers in that the applicant has provided convincing evidence that there is no other location that will have less impact on the wetlands.
2. A prudent and feasible alternative does not exist for the sidewalk location as modified by the Agency in that the permitted alternative will provide the least amount of wetland impact while providing a safe sidewalk along Colonel Ledyard Highway.
3. The potential for erosion will be mitigated by the erosion control plan as set forth on the approved plans.

This permit is subject to the four standard conditions and the following additional conditions:

1. The final plans shall show only the permitted sidewalk alternative.
2. A four-foot-wide sidewalk with no snowshelf and no retaining wall shall be constructed along Colonel Ledyard Highway from the southern property line to the driveway of Lot 15.
3. All slopes greater than 3:1 shall be stabilized with erosion control matting and a detail of the matting installation shall be placed on the plan.
4. Disturbance within the regulated area on Lots 14 and 15 shall be re-vegetated with native grasses and shrubs.

The Agency recommends that the Planning Commission protect the area east of the proposed tree line on Lots 8, 9, 13, 14, and 15 with a posted conservation easement.

Motion made by Sutphen, seconded by Block, so voted unanimously.

2. Mystic Ice House Subdivision, 76 New London Road/Route 1 – public hearing continued to 2/25/04
3. Candy Lane Subdivision, Bonnie Circle

Staff noted that staff review was held last week and the applicant is revising plans.

4. Grossman's Seafood, 479 Route 184

Staff reviewed the proposal for additional pavement around the back of the building 8 feet from wetlands and a dumpster pad and enclosure 20 feet from wetlands. Chad Frost,

landscape architect representing the owner, noted that the large pine tree would remain. They are proposing an 18-inch high concrete retaining wall with a culvert under it that will follow the existing grade to address drainage to an existing swale. Scott questioned the use of a versalock wall and Frost noted that a versalock wall could not hold the weight of the dumpster and would not address their needs with the dumpster's track enclosure and anchoring requirements. The Agency discussed alternative dumpster locations and Frost explained accessibility issues.

Staff distributed considerations for decision.

MOTION: To approve the Grossman's Seafood application for the following reasons:

1. There is no loss of wetland or watercourse as a result of this project.
2. The activity requires limited grading and stormwater will not be directed to the adjacent wetland.

This permit is subject to the four standard conditions and the following additional conditions:

1. Erosion controls shall be shown along the edge of disturbance.

Motion made by Sutphen, seconded by Williams, so voted unanimously.

#### 5. Mystic Oil Company, 2414 and 2440 Gold Star Highway

Staff reviewed the location of the existing gas station/convenience store between the LaFrance site and former Ted's Salesroom. The Mystic Oil Company has purchased the Ted's Salesroom property. The site is within the Water Resource Protection District so the existing gas pumps and canopies will remain in its current location; however, the convenience store will be removed and three new buildings will be constructed. Office and retail space, a coffee/sandwich shop, a convenience store and a car wash are proposed. Regulated activities include stormwater discharge to wetlands and work within the upland review area associated with construction of one of the buildings, parking, connection to water and sewer, and associated site improvements. Staff noted that there is a wetland located at the base of a slope leading toward Haley Brook in the area of the proposed sewer and water connection. Ninety-eight percent of the car wash water is recycled with the remainder flowing into the sewer.

The Agency scheduled a site walk for Monday, February 23, 2004 at 4:00 p.m. They will meet at the former Ted's Salesroom site.

## VII. NEW BUSINESS

1. Heaslip Subdivision, Lamphere Road – preliminary discussion

Staff reviewed the location of the proposed subdivision within the Fieldcrest Subdivision. Mike Bennett, representing the owner, reviewed two subdivision scenarios on 18.8 acres of land off Lamphere Road on a "paper street" portion of Lamphere Road which was laid out during the Fieldcrest Subdivision, but never constructed. He reviewed the location of wetlands. Buffer activity would be proposed, but no wetland disturbance. Lamphere Road would be continued to a new cul-de-sac. He reviewed areas where the Town has requested a drainage easement and an easement for a future cul-de-sac. The second, more aggressive scenario was designed to address the Town Planner's request for a road connecting Lamphere Road to Whittle Street. Staff explained that this request was based on the Planning Commission's desire to have two ways to access the existing lots in the western part of the Fieldcrest Subdivision. The Agency preferred the less intense, six-lot scenario with a cul-de-sac. A pedestrian path proposed in an area previously established could be used for emergency vehicles rather than a full road. The path could be 12-feet wide and not require any additional disturbance. Sutphen voiced concern with the Town's desire for an easement for a future cul-de-sac. The presence of that easement in no way constitutes future approval.

## 2. Report of Chair

Scott asked Agency members to notify staff if they notice any erosion problems.

## 3. Report of Staff

Staff distributed the list of this spring's DEP training courses.

## VIII. ADJOURNMENT

The meeting adjourned at 9:51 p.m.

Respectfully submitted,

Girard Keeler